

**ALASKA STATE LEGISLATURE
HOUSE STATE AFFAIRS STANDING COMMITTEE**

March 16, 2021

3:03 p.m.

DRAFT

MEMBERS PRESENT

Representative Jonathan Kreiss-Tomkins, Chair
Representative Matt Claman, Vice Chair
Representative Geran Tarr
Representative Andi Story
Representative Sarah Vance
Representative James Kaufman
Representative David Eastman

MEMBERS ABSENT

All members present

COMMITTEE CALENDAR

HOUSE BILL NO. 44

"An Act relating to the practice of accounting."

- HEARD & HELD

HOUSE BILL NO. 106

"An Act relating to missing persons under 21 years of age."

- HEARD & HELD

PREVIOUS COMMITTEE ACTION

BILL: HB 44

SHORT TITLE: PRACTICE OF ACCOUNTING; LICENSURE

SPONSOR(S): REPRESENTATIVE(S) THOMPSON

02/18/21	(H)	PREFILE RELEASED 1/8/21
02/18/21	(H)	READ THE FIRST TIME - REFERRALS
02/18/21	(H)	STA, L&C
03/11/21	(H)	STA AT 3:00 PM GRUENBERG 120
03/11/21	(H)	Heard & Held
03/11/21	(H)	MINUTE(STA)
03/16/21	(H)	STA AT 3:00 PM GRUENBERG 120

BILL: HB 106

SHORT TITLE: MISSING PERSONS UNDER 21 YEARS OLD

SPONSOR(s): RULES BY REQUEST OF THE GOVERNOR

02/19/21	(H)	READ THE FIRST TIME - REFERRALS
02/19/21	(H)	STA, HSS
03/11/21	(H)	STA AT 3:00 PM GRUENBERG 120
03/11/21	(H)	Scheduled but Not Heard
03/16/21	(H)	STA AT 3:00 PM GRUENBERG 120

WITNESS REGISTER

REPRESENTATIVE STEVE THOMPSON

Alaska State Legislature

Juneau, Alaska

POSITION STATEMENT: Provided introductory remarks on CSHB 44(STA), as the prime sponsor.

KAREN BREWER-TARVER

Alaska Society of Certified Public Accountants

Juneau, Alaska

POSITION STATEMENT: Provided invited testimony pertaining to CSHB 44(STA).

LESLIE SCHMITZ, Chair

Alaska Board of Public Accountancy

Anchorage, Alaska

POSITION STATEMENT: Provided invited testimony pertaining to CSHB 44(STA).

THOMAS NEILL, Chair

Uniform Accountancy Act Committee

American Institute of Certified Public Accountants

Seattle, Washington

POSITION STATEMENT: Provided invited testimony pertaining to CSHB 44(STA).

DON RULIEN

Alaska Society of Certified Public Accountants

National Association of State Boards of Accountancy

Anchorage, Alaska

POSITION STATEMENT: Provided invited testimony pertaining to CSHB 44(STA).

SANDON FISHER, Attorney

Legislative Legal Services

Legislative Affairs Agency
Juneau, Alaska

POSITION STATEMENT: Answered questions pertaining to CSHB 44 (STA) .

LYNETTE BERGH, Staff
Representative Steve Thompson
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Answered questions pertaining to CSHB 44 (STA) on behalf of Representative Thompson, prime sponsor.

CORI HONDOLERO, Executive Administrator
Alaska Board of Public Accountancy
Anchorage, Alaska

POSITION STATEMENT: Answered questions pertaining to CSHB 44 (STA) .

RANDI BREAGER, Special Assistant
Office of the Commissioner
Department of Public Safety
Anchorage, Alaska

POSITION STATEMENT: Introduced HB 106 on behalf of the House Rules Standing Committee, sponsor by request of the governor.

KATHY MONFREDA, Director
Division of Statewide Services
Department of Public Safety
Anchorage, Alaska

POSITION STATEMENT: Provided a PowerPoint presentation, titled "House Bill 106," dated 3/11/21.

ACTION NARRATIVE

[3:03:19 PM](#)

CHAIR JONATHAN KREISS-TOMKINS called the House State Affairs Standing Committee meeting to order at 3:03 p.m. Representatives Story, Claman, and Kreiss-Tomkins were present at the call to order. Representatives Eastman, Tarr, and Vance arrived as the meeting was in progress.

HB 44-PRACTICE OF ACCOUNTING; LICENSURE

[3:04:05 PM](#)

CHAIR KREISS-TOMKINS announced that the first order of business would be HOUSE BILL NO. 44, "An Act relating to the practice of accounting." [Before the committee was CSHB 44(STA).]

3:04:54 PM

REPRESENTATIVE STEVE THOMPSON, Alaska State Legislature, prime sponsor of CSHB 44(STA), directed attention to the legal opinion on the subject of "may" and "shall," dated 3/15/21 [included in the committee packet].

CHAIR KREISS-TOMKINS opened invited testimony.

3:05:59 PM

KAREN BREWER-TARVER, Alaska Society of Certified Public Accountants, informed the committee that she is a certified public accountant (CPA) with the Juneau-based firm, Elgee Rehfeld, and former chair of the Alaska Board of Public Accountancy ("the board"). She recounted that several years ago, CSHB 44(STA) started as a project of the Alaska Board of Public Accountancy in collaboration with the American Institute of Certified Public Accountants (AICPA), the National Association of State Boards of Accountancy (NASBA), and the Alaska Society of Certified Public Accountants (CPAs). She explained that the Uniform Accountancy Act (UAA) is a model licensing law created by the AICPA and NASBA to provide a uniform approach to the regulation of the accounting profession. She said it is used as a template by the 50-plus licensing jurisdictions and modified as needed. She reported that the board worked with James Cox, AICPA, to facilitate a complete review of Alaska's accounting statutes and regulations in comparison to the UAA. She noted that the board reviewed each identified difference in detail over the last several years. Furthermore, licensees were involved in the review process through focus groups held in Fairbanks, Girdwood, and Anchorage. She said the feedback from focus groups helped the board identify the licensee's concerns, which were resolved through further education and evaluations on the impact of the proposed changes. She offered her understanding that there are no existing objections to the proposed changes. She stated that the board narrowed down the recommended changes to three primary issues: revision of the out-of-state exemption to reduce barriers to entry by providing services across state borders while imparting the board with increased oversight to out-of-state firms; adoption of the term "firm," which streamlines the statutes by removing several pages of duplicative wording that

was previously included for each business type; and replacing the outdated "quality review" terminology with "peer review." Additionally, she noted that the bill would update and add definitions for several accountancy terms to increase clarity.

CHAIR KREISS-TOMKINS asked whether Ms. Brewer-Tarver had stated that she is unaware of any objections from licensees to the current language in CSHB 44(STA).

MS. BREWER-TARVER confirmed.

3:09:35 PM

REPRESENTATIVE STORY questioned how the board reached out to firms and grew awareness of the proposed revisions.

MS. BREWER-TARVER restated that focus groups were offered in Fairbanks, Girdwood, and Anchorage. Additionally, the Alaska Society of CPAs shared the information to its members via newsletter. She said disseminating the information about the proposed changes was a coordinated effort. She reiterated that she is unaware of any objections that had not been previously addressed in the focus groups or by the board.

3:11:59 PM

LESLIE SCHMITZ, Chair, Alaska Board of Public Accountancy, endorsed the information shared by Ms. Brewer-Tarver. She said the board worked diligently to provide transparency and clarity to both licensees and the public. She offered her belief that the bill closely follows the UAA language to enhance public protection and to modernize terminology referenced in the law. She noted that despite the large appearance, the bill focuses on [three] main topics, which Ms. Brewer-Tarver outlined in her testimony.

3:14:04 PM

THOMAS NEILL, Chair, Uniform Accountancy Act Committee, American Institute of Certified Public Accountants, expressed support for CSHB 44(STA), which would modernize Alaska's accountancy statute. He reiterated that the UAA is a model act with the goal of providing the 55 U.S. licensing jurisdictions a consistent framework for regulating the profession. He conveyed that the accounting profession had faced a number of challenges over the past few years, which impacted the ability of businesses to access needed professional services. He noted

that "firm mobility" - a major concept in the bill - addresses one of these challenges. He explained that when the concept of mobility was first contemplated more than 20 years ago, there was concern that licensed CPA firms might loss business to out-of-state firms; however, from his first-hand experience in Washington, he suggested that this does not occur. He added that his firm had received more requests to provide services in the last three years than ever before, many from out-of-state businesses that had to extend their reach to find a service provider. Furthermore, he stated that concerns over the perceived loss of revenue to the state were expressed, which he refuted. He said that when a firm crosses a state line it may have to file and pay business, occupation, corporate, and individual taxes, as applicable, for the revenue that's earned there depending on state tax regulations, as well as state payroll taxes for the time staff spends in that state. Currently, he said, there are 30 states with enacted firm mobility statutes. He offered his belief that a key advantage of firm mobility is that Alaskan businesses would have access to more professional services. He related that [CSHB 44(STA)] was well-crafted to mirror the UAA and to position Alaska CPAs to move forward and serve businesses.

[3:16:48 PM](#)

DON RULIEN, Alaska Society of Certified Public Accountants, National Association of State Boards of Accountancy, informed the committee that he completed his second four-year term on the Alaska Board of Public Accountancy in March 2021. He said he worked diligently on the proposed changes that are present in this legislation while serving as chair of the board. He further noted that he is currently on the Uniform Accountancy Act Committee for NASBA. He relayed that the board, in concert with AICPA, NASBA, and the Alaska Society of CPAs, conscientiously evaluated every change to ensure that they met all the necessary requirements to move the profession into the future while continuing to protect the public's interest.

[3:18:32 PM](#)

CHAIR KREISS-TOMKINS opened public testimony. After ascertaining that no one wished to testify, he closed public testimony.

[3:19:04 PM](#)

REPRESENTATIVE CLAMAN inquired about the practice of using "may" and "shall" in statute with regard to other [licensing] professions.

[3:19:54 PM](#)

SANDON FISHER, Attorney, Legislative Legal Services, Legislative Affairs Agency, offered his understanding that the use of the words "may" and "shall" could be different depending on the intention of the legislature at that time. He offered to follow up with further information on how often the words are used in other professional licensing statutes.

REPRESENTATIVE CLAMAN requested a sample of 6-10 different professions to understand how they approach the use of "may" versus "shall."

CHAIR KREISS-TOMKINS agreed.

[3:23:51 PM](#)

REPRESENTATIVE EASTMAN directed attention to page 11, line 29, and asked why the financial statement framing is being removed in this section [Section 26], as well as Section 40.

[3:24:48 PM](#)

LYNETTE BERGH, Staff, Representative Steve Thompson, Alaska State Legislature, on behalf of Representative Thompson, prime sponsor of CSHB 44(STA), deferred to a member of the Alaska Board of Public Accountancy.

MS. BREWER-TARVER explained that the "financial statement" language is being removed from accountancy statutes because the industry has moved beyond issuing reports solely on financial statements. She said if that language were left in the bill, it would exclude a service that's currently provided by CPAs.

[3:26:14 PM](#)

REPRESENTATIVE EASTMAN questioned whether Section 26 and Section 40 would change the number of people required to have a license. Additionally, he expressed concern that the removal of the term "financial statement" would make those sections overly broad. With the removal of that language, he asked if there is a way to narrow the context to accountancy.

[3:28:12 PM](#)

MR. FISHER acknowledged that in Section 40, the practice of public accounting is updated, such that the language "on financial statements" is removed from reports, thus broadening the term. He surmised that reports would still need to relate to accounting or auditing skills, as the bill states that the practice of public accounting requires the use of "accounting or auditing skills" on page 18, line 18. He pointed out that Section 41 further defines the meaning of the term "report" and in reference to page 18, line 24, he suggested that the committee could provide additional clarification on the functions they serve.

REPRESENTATIVE EASTMAN pointed out that Section 41 defines "report" when used with reference to an attest function or compilation service. He asked if that definition pertains to Section 26, which references the issuance of reports on page 11, lines 27-30.

MR. FISHER said if the report is made without reference to an attest function, [Section 41] would not apply. Nonetheless, the "practice of public accounting" in Section 40 would still pertain to Section 26; therefore, the report would need to relate to an accounting or auditing skill. To the extent that there's not an attest function, he said, the term "report" could be more ambiguous. He reiterated that if it is the will of the committee, the bill could be amended to further clarify the types of accounting work that would constitute a report.

[3:31:31 PM](#)

REPRESENTATIVE EASTMAN sought further clarification on why the report on page 11, line 29, is limited in its scope.

MR. FISHER explained that page 11, lines 27-31, refer to a person who holds a valid license, practice privilege, or permit in Alaska. He offered his belief that the context of this section [Section 26] would require that the term "report" be related to an accounting or auditing function, per Section 40. He acknowledged that depending on whether the report relates to an attest function, Section 41 may not provide clarification on the definition of a report.

[3:33:21 PM](#)

CHAIR KREISS-TOMKINS asked if there is material reason for the modified and slightly broadened definition of "report."

[3:33:43 PM](#)

MS. BREWER-TARVER explained that within the accountancy profession, CPAs only issue reports when used with reference to an attest function or compilation service. She noted that audits and reviews were the two services that fell under the attest function, both of which were previously limited to financial statements. She stated that now, the attest function has been expanded to include a new service, which provides an opinion on the System [and Organization] Controls (SOC) of an entity, also called an "attest report."

CHAIR KREISS-TOMKINS surmised that [System and Organization Controls (SOC)] signify how an organization is functioning. He asked if that is correct.

MS. BREWER-TARVER explained that when a CPA is engaged to perform a SOC report, he/she is opining on the internal controls of an entity.

[3:35:52 PM](#)

CHAIR KREISS-TOMKINS questioned whether Ms. Hondolero is aware of an instance in which the board declined to issue a certificate to someone who met the statutory criteria.

[3:36:25 PM](#)

CORI HONDOLERO, Executive Administrator, Alaska Board of Public Accountancy, stated that she had not witnessed a board or program staff decline to renew a license when all requirements were met.

CHAIR KREISS-TOMKINS asked whether there is value in granting the board discretionary authority versus specifying that the board "shall" issue a certificate if all the legal criteria are satisfied by the applicant.

MS. HONDOLERO deferred to the chair of the Alaska Board of Public Accountancy. She noted that throughout Alaska's [accountancy] statutes, there are instances of both "may" and "shall" being used. Further, she offered her belief that the statutory language for other professions is similar. She

posited that the use of "shall" instead of "may" would not prohibit the board.

CHAIR KREISS-TOMKINS asked Ms. Schmitz if the board should retain discretionary authority versus opting for the use of the word "shall."

[3:38:10 PM](#)

MS. SCHMITZ said in her nearly eight years of experience, she has never seen the board deny licensure if the licensee or applicant met all the statutory requirements.

CHAIR KREISS-TOMKINS asked for Ms. Schmitz's opinion on whether there is value in the board retaining or foregoing discretionary authority.

MS. SCHMITZ remarked:

I think ... it could be "shall" rather than "may," but I guess you're always thinking about the one situation where the board may need to have some discretion on that. Although, we do fall back to, if they've met all the statutory requirements, then we would issue them a license.

[3:39:57 PM](#)

CHAIR KREISS-TOMKINS asked Mr. Neil to address the merits of "may" versus "shall" in this legislation.

MR. NEILL recalled when Washington's state board of accountancy had to consider an applicant's "worthiness" due to an issue unrelated to meeting the legal requirements, such as a character issue, a pending issue, or a peer-review issue. He explained that other states use "may" to grant the board discretion on the off chance an applicant/licensee needs to be denied.

REPRESENTATIVE CLAMAN asked for an example of an issue unrelated to the statutory criteria, which might cause the board to wait for the matter to be resolved before issuing a license.

MR. NEILL recalled a situation in Washington in which a firm met the legal requirements; however, there was a pending complaint against one of the partners in the firm, which depending on the outcome, could have impacted the board's ability to issue a license. He stated his belief that discretion on the part of a

well-meaning board grants them the ability to "hit the pause button" instead of being required to "blindly follow forward."

REPRESENTATIVE CLAMAN questioned how the situation in Washington was resolved.

MR. NEILL explained that the complaint against the partner was quickly resolved, which allowed the board to proceed with licensure. He noted that there are rarely outstanding issues that preclude a firm's licensure. Nonetheless, he maintained that [the use of "may"] would grant the board discretionary authority when needed.

[3:44:02 PM](#)

REPRESENTATIVE VANCE highlighted the use of "may" and "shall" on page 3, such that "may" is used in reference to license renewal in Sections 3 and 4 and "shall" is used when granting a permit in Section 5. She continued to note that Section 7, subsection (g), states that the board "shall" renew a permit. She inquired about the discrepancy between "may renew" and "shall renew" in Sections 3 and 4 versus Section 7.

MR. FISHER pointed out that the bill amends different licenses and permits; primarily, licenses issued to individual CPAs and permits issued to firms. He stated that the terms "may" and "shall" in sections 3 and 4 were already in statute prior to the bill. Similarly, Section 7, subsection (g), uses "shall" because the term is used consistently throughout the statute being amended, which is AS 08.04.240.

[HB 44 was held over.]

HB 106-MISSING PERSONS UNDER 21 YEARS OLD

[3:47:05 PM](#)

CHAIR KREISS-TOMKINS announced that the final order of business would be HOUSE BILL NO. 106, "An Act relating to missing persons under 21 years of age."

[3:47:50 PM](#)

RANDI BREAGER, Special Assistant, Office of the Commissioner, Department of Public Safety, introduced herself and provided a brief review of the supporting documents [included in the committee packet].

3:49:18 PM

KATHY MONFREDA, Director, Division of Statewide Services, Department of Public Safety, provided a PowerPoint presentation, titled "House Bill 106" [hard copy included in the committee packet]. She informed the committee that the bill would bring state law as it pertains to the reporting of missing persons between the ages of 18 and 21, into conformity with federal law. She reviewed the federal reporting requirements on slide 2, highlighting Suzanne's Law (2003) and the Adam Walsh Act (2006), which collectively require law enforcement agencies to enter information pertaining to missing persons under the age of 21 into the National Crime Information Center (NCIC) within two hours. She addressed current statutory language on slide 3, noting that Alaska's laws pertaining to the reporting of missing persons have not been amended since they were enacted in the mid-to-late 1980s. Currently, AS 18.65.620 requires law enforcement to report missing minors to the state's Missing Person Clearinghouse if not located within 48 hours after first reported missing; AS 47.10.141 requires the reporting of missing minors into state and national databases within 24 hours after a missing person report is completed; and AS 47.10.390 defines "runaway minor" as a person under 18 years of age.

3:51:15 PM

MS. MONFREDA continued to slide 4 and summarized the proposed statutory changes required for AS 47.10.141 and AS 18.65.620 to comply with federal law: firstly, entry into state and national databases for missing persons under age 21 instead of the state requirement of age 18; secondly, entry of the records into state and national databases within 2 hours instead of the state requirement of 24 hours. She moved to slide 5, which reviewed current procedures. She relayed that statewide training for law enforcement is already in place regarding the more restrictive federal requirements; further, most state and local law enforcement agencies are already complying with those requirements. She added that programming for the state database, Alaska Public Safety Information Network (APSIN), has already been completed to accommodate the more restrictive federal requirements. She turned to slide 6 and explained that enacting the legislation would remove conflicting, less restrictive state statutory requirements. Additionally, faster state and nationwide notification of missing person records for those under the age of 21 would be achieved. She noted that once entered into the national systems, the National Center for

Missing and Exploited Children is automatically notified and proactively offers assistance in investigations. Slide 8 provided a sectional analysis for HB 106, which read:

- Section 1: Includes conforming language related to the duty of law enforcement agencies to reflect changes made in section 2.
- Section 2: Adds a new subsection to AS 18.65.620, requiring law enforcement agencies to transmit a missing person's report for a person under the age of 21 to the Alaska Public Safety Information Network and the National Crime Information Center as soon as practicable, but not later than two hours after completing the report. If the person is later found, the agency shall remove that information from those databases as soon as practicable, but not later than 24 hours after learning the person has been located.
- Section 3: Contains conforming language to AS 47.10.141, runaway and missing children, to the changes made in section 2. All reporting procedures for persons under the age of 21 are moved to AS 18.65, as amended in section 2 of the bill.

MS. MONFREDA noted that the bill has no specified effective date; therefore, it would become effective 90 days after becoming law.

[3:53:49 PM](#)

CHAIR KREISS-TOMKINS announced that HB 106 was held over.

[3:54:20 PM](#)

CHAIR KREISS-TOMKINS provided closing remarks on the committee's upcoming schedule.

[3:54:51 PM](#)

ADJOURNMENT

There being no further business before the committee, the House State Affairs Standing Committee meeting was adjourned at 3:54 p.m.